

**IN THE UNITED STATES DISTRICT COURT FOR MARYLAND,
SOUTHERN DIVISION**

BEYOND SYSTEMS, INC.,)	
)	
Plaintiff)	
v.)	Case No. PJM 08 cv 0921
)	
WORLD AVENUE USA, LLC,)	
et al.,)	
Defendants)	
<hr style="width: 30%; margin-left: 0;"/>)	

DEFENDANT’S NOTICE OF SUPPLEMENTAL AUTHORITY

Defendant World Avenue USA, LLC (“World Avenue”), by and through the undersigned counsel, respectfully files this Notice of Supplemental Authority supporting its Reply to Beyond Systems, Inc.’s (“Plaintiff” or “BSI”) Opposition to the Motion to Challenge Plaintiff’s Designation of 68,300 Documents as Confidential and For Sanctions (“Motion to Challenge Confidentiality”). DE #130. World Avenue requests that the Court consider in its review a newly-discovered document that constitutes a BSI admission and supports World Avenue’s contention that BSI routinely abuses Protective orders and over-designates the discovery materials as confidential. A true and copy of the document is attached as Exhibit A.

As the Court is aware, BSI is a professional plaintiff and a “spam litigator.” It has designated the approximately 68,300 EMAILS AT ISSUE that constitute the basis of its claim as confidential. As argued in World Avenue’s Motion to Challenge Confidentiality, BSI failed to provide any reasons for its mass and blanket confidentiality designation and its conduct constitutes an abuse of the discovery process. The Court denied BSI’s similar baseless arguments in support of its over-designation in a parallel litigation pending in this Court: *Beyond Systems, Inc. v. Kraft Foods, Inc.*, Case No. 8:08-cv-00409 (PJM) (CBM) (“*Kraft*

Action”). The Court denied BSI’s Motion to treat, *inter alia*, the email addresses in these emails as confidential. DE# 228. World Avenue cited the *Kraft* Order in its Reply in Support of the Motion to Challenge Confidentiality. *See* DE# 130, at pp. 7-8.

Subsequent to filing the Reply, on February 23, 2010, World Avenue’s counsel received¹ a copy of a letter authored by BSI’s counsel in the *Kraft* Action dated December 16, 2009 retreating from its prior global designation of discovery material as confidential. Therein, BSI withdrew its prior confidential designation as to numerous discovery materials and continued to deem only a limited number of documents previously produced to Defendants in the *Kraft* Action as confidential. This letter serves as an admission by BSI and its principal, Paul Wagner, that it abused the review and designation process regarding discovery materials that are essential to their claims and defendants’ defenses. *See* Exhibit A.

Thus this letter reinforces World Avenue’s argument that Plaintiff has no basis for asserting the confidentiality of the approximately 68,300 E-MAILS AT ISSUE. Accordingly, the Court should issue an order de-designating the approximately 68,300 emails as confidential, grant World Avenue’s Motion to Challenge Confidentiality, as well as award sanctions for BSI’s bad faith designation.

Respectfully submitted,

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/s/
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¹ World Avenue received the mentioned letter pursuant to a third-party subpoena served on Connexus and Hydra defendants in *Kraft Action*.

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